IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.665 OF 2004

The State of Maharashtra ...Appellant

Vs.

Ajitbhai Govardhandas Thakkar & Ors. ...Respondents

Ms S.V.Gajare, A.P.P for the Appellant.
None for the Respondents.

CORAM : A. S. OKA, J.

DATE : NOVEMBER 17, 2006.

P.C.:

1. Heard the learned A.P.P on the prayer for grant of leave. The acquittal of the Respondents is for the offence punishable under section 420 read with section 34 of the Indian Penal Code.

2. The case of the first informant is that the Respondents were carrying on business in partnership. There was a scheme floated by partnership firm calling upon the investors to deposit amounts with the partnership firm. Promise was given to pay interest or to supply grocery articles. According to the case of the first informant she was dishonestly induced by the Respondents to deposit a sum of Rs.10,00,000/- in the said scheme and thereafter neither any benefits were

paid to her nor the original amount was refunded.

3. Perusal of the impugned Judgment shows that the learned Judge has extensively considered evidence on record. According to the case of the first informant, she had deposited different amounts from time to time with the Respondents from March 1991 till 15th March, 1992 totally amounting to Rs. Ten lacs. According to the case of the first Respondent, she had paid the amounts partly by cheque and partly in cash. However, she could not produce any counterfoils of the cheques or bank statements or any other documents to show that certain payments were made by her by cheque to the Respondents. So far as payment by cash is concerned, there was no evidence produced. The learned Judge noted that the first informant admitted in the cross-examination that in her income-tax returns, the amount of Rs.10,00,000/- allegedly invested by her with the Respondents is not reflected. The learned Judge has observed that the first informant was a Government servant working in Mantralaya and it is not possible to accept that she would invest such a large amount with the Respondents without the Respondents issuing the receipts.

4. The learned Judge held that the prosecution has failed to establish payment of sum of Rs.10,00,000/- by the first informant to the accused.

5. The view taken by the learned Trial Judge is a possible view which could have been taken on the basis of evidence on record. No case is made out for grant of leave. Appeal is dismissed.

JUDGE